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MT LEGISLATIVE HISTORY

Chapter 127 1987

Bill H 58 S _____ Original bill & hist. ___C

H. Committee on Human Services & Aging		S. Committee on Judiciary	
Hearing Date(s) Jan 15	✓C	Hearing Date(s) March 04	✓C
Jan 20	✓C	_____	___C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Jan 20	✓C	March 04	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 58

INTRODUCED BY KEENAN

IN THE HOUSE

JANUARY 5, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
JANUARY 20, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 21, 1987	PRINTING REPORT.
JANUARY 22, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
JANUARY 23, 1987	SECOND READING, DO PASS AS AMENDED.
JANUARY 24, 1987	ENGROSSING REPORT.
JANUARY 26, 1987	THIRD READING, PASSED. AYES, 100; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 27, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 5, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 9, 1987	SECOND READING, CONCURRED IN.
MARCH 11, 1987	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 12, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

HOUSE BILL NO. 58

INTRODUCED BY KEENAN

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE PSYCHOLOGISTS TO HAVE THE SAME AUTHORITY AS PSYCHIATRISTS TO EXAMINE PERSONS RELYING ON MENTAL DISEASE OR DEFECT AS AN ISSUE IN CRIMINAL ACTIONS; AND AMENDING SECTIONS 46-14-202, 46-14-212, 46-14-213, 46-14-221, AND 46-14-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-14-202, MCA, is amended to read:

"46-14-202. Psychiatric examination of defendant. (1) If the defendant or his counsel files a written notice of his intent to rely on a mental disease or defect under 46-14-201 or raises the issue of his fitness to proceed, the court shall appoint at least one qualified psychiatrist or psychologist or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist or psychologist, which designation may be or include himself, to examine and report upon the mental condition of the defendant.

(2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period of not exceeding 60 days or such longer period as the court determines to be necessary for the purpose and may direct that a qualified psychiatrist or psychologist retained by the defendant be permitted to witness and participate in the examination.

(3) In the examination any method may be employed which is accepted by the medical profession for the examination of those alleged to be suffering from mental disease or defect.

(4) The cost of the examination must be paid by the county or the state, or both, according to procedures established under 3-5-902(1)."

Section 2. Section 46-14-212, MCA, is amended to read:

"46-14-212. Examination by ~~psychiatrist~~ expert chosen by state or defendant. If either the defendant or the state wishes the defendant to be examined by a qualified psychiatrist, psychologist, or other expert selected by the one proposing the examination in order to determine the defendant's fitness to proceed or whether he had, at the time the offense was committed, a particular state of mind which is an essential element of the offense, the examiner shall be permitted to have reasonable access to the defendant for the purpose of the examination."

Section 3. Section 46-14-213, MCA, is amended to read:

"46-14-213. Psychiatric testimony upon trial. (1) Upon the trial, any psychiatrist or psychologist who reported under 46-14-202 and 46-14-203 may be called as a witness by

LC 0311/01

INTRODUCED BILL
HB-58

the prosecution or by the defense. If the issue is being tried before a jury, the jury may not be informed that the psychiatrist or psychologist was designated by the court or by the superintendent of the Montana state hospital. Both the prosecution and the defense may summon any other qualified psychiatrist, psychologist, or other expert to testify, but no one who has not examined the defendant is competent to testify to an expert opinion with respect to the mental condition of the defendant, as distinguished from the validity of the procedure followed by or the general scientific propositions stated by another witness.

(2) When a psychiatrist, psychologist, or other expert who has examined the defendant testifies concerning the defendant's mental condition, he may make a statement as to the nature of his examination, his diagnosis of the mental condition of the defendant at the time of the commission of the offense charged, and his opinion as to the ability of the defendant to have a particular state of mind which is an element of the offense charged. The expert may make any explanation reasonably serving to clarify his diagnosis and opinion and may be cross-examined as to any matter bearing on his competency or credibility or the validity of his diagnosis or opinion."

Section 4. Section 46-14-221, MCA, is amended to read:

"46-14-221. Determination of fitness to proceed --

effect of finding of unfitness -- expenses. (1) The issue of the defendant's fitness to proceed may be raised by the defendant or his counsel or by the county attorney. When the issue is raised, it shall be determined by the court. If neither the county attorney nor counsel for the defendant contests the finding of the report filed under 46-14-203, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to summon and cross-examine the psychiatrists or psychologists who joined in the report and to offer evidence upon the issue.

(2) If the court determines that the defendant lacks fitness to proceed, the proceeding against him shall be suspended, except as provided in subsection (4) of this section, and the court shall commit him to the custody of the director of the department of institutions to be placed in an appropriate institution of the department of institutions for so long as the unfitness endures. The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that he is still unfit to proceed and that it does not appear that he will become fit to proceed within the reasonably foreseeable future, the proceeding against him shall be dismissed, except as provided in subsection (4) of this

section, and the county attorney shall petition the court in the manner provided in chapter 20 or 21 of Title 53, whichever is appropriate, to determine the disposition of the defendant pursuant to those provisions.

(3) If the court determines that the defendant lacks fitness to proceed because he is developmentally disabled as provided in 53-20-102(4), the proceeding against him shall be dismissed and the county attorney shall petition the court in the manner provided in chapter 20 of Title 53.

(4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the prosecution which is susceptible to fair determination prior to trial and without the personal participation of the defendant.

(5) The expenses of sending the defendant to the custody of the director of the department of institutions to be placed in an appropriate institution of the state department of institutions, of keeping him there, and of bringing him back are chargeable to the state and payable according to procedures established under 3-5-902(1)."

Section 5. Section 46-14-302, MCA, is amended to read:

"46-14-302. Discharge or release upon motion of superintendent. (1) If the superintendent of the Montana state hospital believes that a person committed to his custody under 46-14-301 may be discharged or released on condition without danger to himself or others, he shall make

application for the discharge or release of the person in a report to the court by which the person was committed and shall send a copy of the application and report to the county attorney of the county from which the defendant was committed.

(2) The court shall then appoint at least two persons who are qualified psychiatrists or psychologists to examine the person and to report their opinion as to his mental condition within 60 days or a longer period which the court determines to be necessary for the purpose. To facilitate the examinations and the proceedings thereon, the court may have the person confined in any institution located near the place where the court sits which may hereafter be designated by the superintendent of the Montana state hospital as suitable for the temporary detention of irresponsible persons.

(3) If the court is satisfied by the report filed under subsection (1) of this section and the testimony of the reporting psychiatrists or psychologists which the court considers necessary that the committed person may be discharged or released on condition without danger to himself or others, the court shall order his discharge or his release on conditions which the court determines to be necessary.

(4) If the court is not satisfied, it shall promptly

order a hearing to determine whether the person may safely be discharged or released. A hearing is considered a civil proceeding, and the burden is upon the committed person to prove by a preponderance of the evidence that he may safely be discharged or released. According to the determination of the court upon the hearing, the committed person shall then be discharged or released on conditions which the court determines to be necessary or shall be recommitted to the custody of the superintendent of the Montana state hospital, subject to discharge or release only in accordance with the procedures prescribed in this section and 46-14-303."

-End-

STATUS SHEET

50th LEGISLATIVE SESSION

HUMAN SERVICES COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CONSIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CONCURRED IN DATE	BE NOT CONCURRED IN DATE	BE CONCURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
24	1/5/87	1/6/87	1/6/87	tabled							
36	1/5/87	1/15/87					1/22/87				
58	1/5/87	1/15/87		1/20/87							
74	1/5/87	1/13/87			1/13/87						
75	1/5/87	1/13/87					1/13/87				
82	1/5/87	Rereferred to Judiciary									
90	1/6/87	1/20/87			1/22/87						
114	1/8/87	1/20/87		1/27/87							
116	1/8/87	1/20/87		1/20/87							
126	1/9/87	1/22/87				1/22/87					
128	1/9/87	1/22/87	tabled								
200	1/14/87	1/27/87		1/27/87							
223	1/15/87	1/27/87				1/27/87					
327	1/20/87	1/27/87				2/5/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
HUMAN SERVICES AND AGING COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

The meeting of the Human Services and Aging Committee was called to order by Chairman R. Budd Gould at 1:00 p.m. on Thursday, January 15, 1987 in Room 312-D of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 58:

REP. NANCY KEENAN, district 66, introduced HB58. She mentioned that the word "or psychologist" was inserted in the bill. She explained that this authorized psychologists to have the same authority as psychiatrists for persons relying on mental disease or defect as an issue in criminal actions. She pointed out that licensed psychologists were clarified as a person with a doctoral degree based on psychological studies.

DR. HUGH BLACK, clinical psychologist from Helena, spoke in favor of the bill. He said that psychologists go through 5-6 years of intensive training and are conversant in evaluation and testing, diagnosis, and interpreting with an extensive intership (exhibit 1).

LOWELL LUKE, a clinical social worker representing the Montana Chapter of Social Workers, agree that psychologists should be included as expert witnesses in criminal cases (exhibit 2). He mentioned that they felt the bill was too restrictive. He said there were three professional groups that do clinical evaluations and testify as expert witnesses in criminal cases, which include social workers. An amendment (exhibit 3) is recommended that says licensed professional who are certified as professional people. The proposal would include social workers, psychologists, and psychiatrists. The amendment would be more consistent with the practices of Montana courts.

OPPONENTS: There were no opponents.

REP. KEENAN closed on HB58. She said there would be a considerable amount of discussion on the proposed amendment by the social workers. She presented a copy of the Comprehensive Criminal Control Act amendments of Congress that include psychologists and psychiatrists (exhibit 4).

QUESTIONS FROM THE COMMITTEE:

There were no questions from the committee.

CONSIDERATION OF HOUSE BILL 36:

REP. DOROTHY BRADLEY, District 79, introduced HB36. She said the purpose of the bill was to require a bachelors degree for a registered nurse. She pointed out that the bill postponed the effective date until 1992. This would leave this open for anybody entering the field for 5 years. She emphasized that no change is made for licensed practical nurses.

PROPONENTS:

PEGGY MUSSEHL, president of the Montana Nurses Association from Bozeman, testified in support of HB36. She explained that MNA was a statewide organization composed of registered nurses who are graduates of diploma schools of nursing, associate and baccalaureate degree programs, and masters and doctorate degree programs. She pointed out that nursing practice must have a minimum professional baccalaureate degree (exhibit 1).

THERESA SULLIVAN, representing the Montana Consortium and Schools of Nursing, spoke in support of the bill. She discussed the programs that granted degrees and diplomas. She pointed out the emphasis on the professional person was the development of critical thinking and analysis skills (exhibit 2).

MYRNA YUNCK, president of Montana Organization of Nurse Executives, spoke in support of HB36. She described the organization of nurse executives. Standardized, educational entry requirements have been developed over 25 years. She pointed out the technical skills that were needed (exhibit 3).

GRETCHEN FITZGERALD, vice president for nursing at Montana Deaconess Medical Center in Great Falls, spoke as a proponent to HB36. She discussed the educational background of the nurses employed by the hospital. She pointed out the education diversity preparedness of nurses who hold the same license. The purpose of increased education for nurses is to respond to the future of the health care delivery system. She stated that educational preparation for the new professional roles necessitates a minimum of a baccalaureate degree in nursing (exhibit 4).

KATHLEEN MANION, a certified school nurse in the East Helena School District and representing the Montana Association of School Nurses, spoke in support of HB36. She mentioned a survey done in 1986 of Montana school nurses showing 55

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 15, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	X		
REP. BOB GILBERT, VICE CHAIRMAN	X		
REP. JAN BROWN	X		
REP DUANE COMPTON	X		
REP. DOROTHY CODY	X		
REP. DICK CORNE'	X		
REP. LARRY GRINDE	X		
REP. STELLA JEAN HANSEN	X		
REP. LEO KITSELMAN	X		
REP. LLOYD MC CORMICK	X		
REP. RICHARD NELSON	X		
REP. JOHN PATTERSON	X		
REP. ANGELA RUSSELL	X		
REP. JACK SANDS	X		
REP. BRUCE SIMON	X		
REP. CAROLYN SQUIRES	X		
REP. TONIA STRATFORD	X		
REP. BILL STRIZICH	X		

EXHIBIT #1
DATE 1-15-87
HB # 58

WITNESS STATEMENT

NAME Hugh M. Black PhD BILL NO. HB# 58

ADDRESS Box 4455 Helena MT 59604 DATE 1-15-87

WHOM DO YOU REPRESENT? Montana Psychological Association

SUPPORT Yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I favor HB 58. At this time psychologists are frequently requested to evaluate (with psychological interview, psychological testing, and diagnosis) persons for whom doubts of mental competency to stand trial are relevant. Psychologists are as qualified in this matter ~~because~~ as psychiatrists because they have training of similar length (4-6 years Academic training, followed by at least one year's intensive internship) and are qualified to interpret psychological testing as it relates to personal functioning and capacity to recognize rights and responsibilities. They are given parity with psychiatrists in this matter in the federal arena.

Hugh M. Black PhD

HOUSE BILL - NO. 58

This is a provisional proponent statement by Lowell H. Luke, ACSW, on behalf of the Montana Chapter of Licensed Social Workers.

We agree that psychologists should be included as expert witnesses in criminal cases. We know that psychologists already do evaluations in criminal cases and testify accordingly. However, we feel this bill is too restrictive. At this time there are three professional groups who do clinical evaluations and testify as expert witnesses in criminal cases: psychologists, social workers, and psychiatrists.

Based on this situation an amendment is being sponsored by Representative Jan Brown for the Montana Chapter of Licensed Social Workers. The critical difference is that rather than designating psychiatrist and psychologist, our bill will state "licensed professional with a certificate as a professional person". Our proposal would thereby include social workers, psychiatrists, and psychologists. We feel this proposed amendment will be more consistent with the actual practices of Montana courts.

Just as the psychologists are making this proposal because they are currently testifying as expert witnesses, we licensed social workers also are being asked to testify as expert witnesses in criminal cases. (At present, social workers by law are accepted as expert witnesses in civil cases.) As certified professional persons, we are now asked in criminal cases to evaluate the defendants' mental conditions and mental fitness, to diagnose mental conditions, to give opinions of mental conditions, and to make commitments to institutions.

The psychologists may push to have this acted upon immediately; we ask that you wait and consider our proposed amendment.

EXHIBIT # 2
DATE 1-15-87
HB # 58

PROPOSED AMENDMENT TO HB 58: an act to authorize psychologists to have the same authority as psychiatrists to examine persons....

Amend the Title to read:

AN ACT TO AUTHORIZE ~~PSYCHOLOGISTS~~ LICENSED PROFESSIONALS WHO ARE CERTIFIED AS PROFESSIONAL PERSONS UNDER MCA 53-21-102 to HAVE THE SAME AUTHORITY AS PSYCHIATRIST TO EXAMINE PERSONS RELYING ON MENTAL DISEASE OR DEFECT AS AN ISSUE IN CRIMINAL ACTIONS: AND AMENDING SECTIONS 46-14-202, 46-14-212, 46-14-213, 46-14-221, and 46-14-302, MCA.

In the following sections whereever psychologist is added, delete and add the phrase above: licensed professionals who are certified as professional persons under MCA 53-21-102.

EXHIBIT NO. 4
DATE March 4
BILL NO. HB 58

H.B. 58

"An act to authorize psychologists to have the same authority as psychiatrists to examine persons relying on mental disease or defect as an issue in criminal actions..."

Sponsor: Rep. Nancy Keenan
Committee: Heard in Human Services on 1-14-86
Proponents: Montana Psychological Association
Opponents: None

Background: Under present law only psychiatrists (MDs) have the authority to testify in court regarding the competency of a defendant.

Psychologists have a minimum of 5 years of graduate training in testing and evaluation which is critical in determining if a defendant is competent to stand trial.

In Oct. 1986 Congress passed the Comprehensive Crime Control Act Amendments (S.1236) which gives clinical psychologists complete parity with psychiatrists in all aspects of the Federal Criminal Code.

Summary of Education and Training

Psychiatrist	Psychologist	Social Worker	Counselor
4 yrs medical school; 3-4 yr residency in psychiatry (M.D.)	4-5 yrs graduate school + 1 yr internship (Ph.D.)	2 yrs graduate school for MSW+ 3,000 hours Supervised Internship	41 licensed counselors in Mt with a variety of degrees: 1 MSW, 8 M.Eds, 1 MFT 21 MA & MS, 5 Ed.Ds. & 5 Ph.Ds

That there were no opponents to H.B. 58, and the fact the Congress has given psychologists parity with psychiatrists suggests that psychologist's intensive training in testing and evaluation make them well qualified to determine whether a defendent is competent to stand trial.

H.B. 58, which gives psychologists parity with psychiatrists should be considered independently and on its own merits. Whether or not other mental health professionals have the specific education and training to do the testing and evaluation necessary to determine competency in these matters is significantly more complicated, and should be carefully considered in separate legislation.

Source (probable): Federal Register October, 1986

On October 18, 1986 Congress passed the Comprehensive Criminal Control Act Amendments of 1986. (S. 1236)

which... modifies federal criminal code to insure all aspects of the federal criminal code grant clinical psychologists complete parity with psychiatrists in such areas as bail, sentencing, and drug enforcement, pre-sentencing studies and reports ordered by the Court... also to insure that clinical psychologists are authorized to conduct psychological examinations and file reports with the federal courts in matters involving competency to stand trial, insanity, and hospitalization of criminal defendants with mental disorders.

Source: Susan Sachsenmaier, Warm Springs Clinical Psychologist

VISITORS' REGISTER

HUMAN SERVICES AND AGING COMMITTEE

ILL NO. HB58 DATE 1-15-86

SPONSOR Keenan

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Pat Callbeck Harper	301 S. Oakes Helena	✓	
Holly D. Kilcrys	520 Monroe	✓	
Bervey Mommix	910 E. Lawrence	✓	
Judy Hilt			

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

REP. KITTSELMAN said all the information was not available. He recommended extra time to determine why the bill was needed.

REP. MCCORMICK WITHDREW the motion.

EXECUTIVE ACTION ON HOUSE BILL 58:

REP. SANDS moved DO PASS ON HB58. Rep. Brown said she had one amendment that would include social workers so that they would have the ability to testify as expert witnesses.

REP. BROWN moved TO AMEND HB58.

REP. SANDS recommended waiting on this since the bill did not get into the issue of social workers.

REP. SIMON moved a substitute motion to DO NOT PASS on amendments to HB58. The question was called. The motion carried with Rep. Russell voting NO.

The question was called to DO PASS on HB58. Chairman Gould said this would allow both psychiatrists and psychologists to be expert witnesses. The motion PASSED unanimously.

CONSIDERATION OF HOUSE BILL 90:

REP. WHALEN, distributed proposed amendments to HB90. (Exhibit 2) He discussed the reason for the bill and described the county welfare department acting on behalf of SRS had removed children based on hearsay information. He said the portion of the act he was dealing with was the emergency proceeding if it appears that there is immediate or apparent danger or harm the children can be removed. He said the proposed amendment would insert the word "physical". He said this referred to the emergency statute which was not the same as a neglected child. The second amendment would insert after "harm" including "physical, sexual, abuse" and the remainder "based on evidence corroborating the reason to believe". He said the reason the language is important is it requires the people investigating these things to not just go and remove children based upon hearsay statements of an individual that often have motivates of their own other than to protect children to have the children removed without the parents knowing. He mentioned a problem of getting records out of the county attorneys office. The proposed amendment for alteration of the present statute appears on page 2, line 9. This says records must be disclosed to the parents of a child who is a subject of the record or to an attorney representing a parent. SRS recommended that names of informants not be disclosed. Therefore an amendment that inserts on page 2,

DAILY ROLL CALL

HUMAN SERVICES AND AGING COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date JANUARY 20, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. BUDD GOULD, CHAIRMAN	X		
REP. BOB GILBERT, VICE CHAIRMAN	X		
REP. JAN BROWN	X		
REP DUANE COMPTON	X		
REP. DOROTHY CODY	X		
REP. DICK CORNE'	X		
REP. LARRY GRINDE	X		
REP. STELLA JEAN HANSEN	X		
REP. LES KITSELMAN	X		
REP. LLOYD MC CORMICK	X		
REP. RICHARD NELSON	X		
REP. JOHN PATTERSON	X		
REP. ANGELA RUSSELL	X		
REP. JACK SANDS	X		
REP. BRUCE SIMON	X		
REP. CAROLYN SQUIRES	X		
REP. TONIA STRATFORD	X		
REP. BILL STRIZICH	X		

CS-30

STANDING COMMITTEE REPORT

January 29, 19 87

Mr. Speaker: We, the committee on HUMAN SERVICES AND AGING

report HOUSE BILL # 58

- [x] do pass
- [ ] do not pass
- [ ] be concurred in
- [ ] be not concurred in
- [ ] as amended
- [ ] statement of intent attached

REP. R. BUDD GOULD, Chairman

LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE

FIRST reading copy (WHITE color)

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325 DAYS: MON THRU FRI TIME: 10:00 A.M.

SECRETARY-MARY HUBER

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0013	1/21	2/05		CONCUR AS AMENDED		3/3
MERCER, JOHN			EXEMPT IN BANKRUPTCY ACTION ALL PROPERTY OF INDIVIDUAL EXEMPT UNDER MCA			
HB0019	1/24	2/05		CONCUR AS AMENDED		3/9
MERCER, JOHN			GENERAL REVISION OF LAWS RELATING TO PROPERTY EXEMPT FROM EXECUTION			
HB0021	1/21	2/05		CONCUR AS AMENDED		3/4
FRITZ, HARRY			RAISE LEGAL DRINKING AGE FROM 19 TO 21; PROVIDE EFFECTIVE DATES			
HB0037	1/21	2/10		CONCUR		3/5
BRADLEY, DOROTHY			DEFENDANT'S RECORD EXPUNGED UPON DISMISSAL OF CHARGES			
HB0042	1/21	3/03		CONCUR AS AMENDED		3/3
COBB, JOHN			CLARIFY LEGAL STANDARD GOVERNING LANDOWNER LIABILITY			
HB0053	1/21	3/03		CONCUR		3/11
EUDAILY, RALPH			GENERALLY REVISE MCA			
HB0058	1/27	3/04		CONCUR		3/4
KEENAN, NANCY			LET PSYCHOLOGISTS EXAMINE PERSONS WHEN MENTAL DEFECT IS A CRIMINAL ISSUE			
HB0065	1/21	3/04		CONCUR		3/4
PECK, RAY			SERVING OUT TRAFFIC FINES AT $10 PER DAY			
HB0073	3/03			CONCUR AS AMENDED		3/21
BRADLEY, DOROTHY			APPLICATION OF MOTOR VEHICLE LAWS TO MINORS -- EXCEPT PENALTY IMPOSITION			
HB0077	1/21	2/12		CONCUR		3/4
BROWN, JAN			ALLOWS PATERNITY ACTION BY STATE AGENCY UNTIL CHILD BECOMES 21 YEARS OF AGE			
HB0078	3/02	3/13		CONCUR AS AMENDED		3/19
BROWN, JAN			PERMIT ATTACHMENT OR GARNISHMENT OF WORKERS' COMP. TO PAY CHILD SUPPORT			

Drew Dawson, Montana Department of Health, said the department supports the bill.

Lyle P. Nagel, Montana State Volunteer Firefighters Association, stated many homemakers, college students, and unemployed people have volunteered for emergency medical work, and need liability insurance.

Bill Leary, Montana Hospital Association, supports HB 139.

Henry Elohn, Montana State Volunteer Firefighters, supports the bill.

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 139: There was none.

CONSIDERATION OF HOUSE BILL 58: Representative Nancy Keenan, Anaconda, introduced HB 58, which amends five criminal procedure statutes to authorize "licensed clinical psychologists", as well as psychiatrists, to examine defendants who rely on mental disease or defect as an issue in criminal actions. She distributed a summary on the bill. (Exhibit 4) She also presented a letter from District Judge Michael Keedy on the bill. (Exhibit 5)

PROPONENTS: Dr. Hugh Black, Montana Psychologist Assn. supported the bill. (see witness sheet)

OPPONENTS: There were none.

DISCUSSION OF HOUSE BILL 58: Senator Pinsoneault asked who came to Rep. Keenan to request this bill. She said the psychologists have been doing this for awhile, and they felt it should be clarified in the law.

Rep. Keenan closed the hearing on HB 58.

ACTION ON HOUSE BILL 58: Senatot Blaylock moved the bill BE CONCURRED IN. The motion carried.

ACTION ON HOUSE BILL 21: Valencia Lane gave the committee a gray bill for HB 21. (Exhibit 6) Senator Mazurek asked if there was a state constitutional delegation problem in the 55 mph bill. Valencia said there wasn't. She said that problem was if the federal government repealed the requirement of the 55 mph requirement, then the Attorney General will change the speed limit. She said the Montana Supreme Court found that unconstitutional.

Judiciary COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date March 6

NAME	PRESENT	ABSENT	EXCUSED
Senator Joe Mazurek, Chairman	X		
Senator Bruce Crippen, Vice Chairman	X		
Senator Tom Beck	X		
Senator Al Bishop	X		
Senator Chet Blaylock	X		
Senator Bob Brown	X		
Senator Jack Galt	X		
Senator Mike Halligan	X		
Senator Dick Pinsoneault	X		
Senator Bill Yellowtail	X		

Each day attach to minutes.

SENATE JUDICIARY
EXHIBIT NO. 5
DATE March 4, 19
BILL NO HB 58

State of Montana Eleventh Judicial District

POST OFFICE BOX 839 KALISPELL, MONTANA 59903-0839 752-5300 EXT. 221

MICHAEL H. KEEDY
JUDGE OF THE DISTRICT COURT

ROBERT G. MEERKATZ
COURT REPORTER

January 14, 1987

Representative Nancy Keenan
c/o Capitol Station
Helena, MT 59620

Re: Mental Disease or Defect Legislation

Dear Representative Keenan:

I have seen a copy of your House Bill 58, which authorizes psychologists (as well as psychiatrists) to examine and evaluate criminal defendants who intend to rely upon a "mental disease or defect" in defending against charges filed against them. My interest in this legislation stems from my recent work as a trial judge, having had to confront the defense in particular cases, and from the fact that Chapter 14 of the Montana Criminal Code, which would be affected by your bill, originated with legislation drafted and carried by me during the 1979 legislative session.

I just want you to know, for what it's worth, that I'm wholeheartedly in favor of your proposal, and sorry (in retrospect) that I didn't have the foresight to see the need for this provision several sessions ago, or to include it in the original, '79 bill. You may be able to carry House Bill 58 through both houses of the '87 legislature without any difficulty, and you probably will; however, if you feel the need to use my endorsement at any time, I'd be glad to have you do so. If necessary, on reasonable notice I'm also willing to come to Helena to testify in support of your bill, although that probably wouldn't be necessary.

Good luck with this idea. Please do let me know if I can help you with it in any way. Thank you.

Very truly yours,

Michael H. Keedy

Michael H. Keedy
District Judge

MHK/cs

cc: Mr. Ted O. Lympus, Flathead County Attorney, w/encl.

STANDING COMMITTEE REPORT

March 4 19 77

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 58

Third reading copy (HIGH blue color)

Let psychologists examine persons when mental defect is a criminal issue.
Keenand (Mazurek)

Respectfully report as follows: That HOUSE BILL No. 58

~~DO PASS~~

~~DO NOT PASS~~

BE CONCURRED IN

Senator Mazurek Chairman.